

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
DB STRUCTURED PRODUCTS, INC.,  
Plaintiff,  
-v-  
FIRST CAPITAL MORTGAGE CORP.,  
Defendant.  
-----X

07 CIV. 4115 (DLC)

PRETRIAL  
SCHEDULING ORDER

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 4-8-08

DENISE COTE, District Judge:

As set forth at the pretrial conference held on April 7, 2008, the following schedule shall govern the further conduct of pretrial proceedings in this case:

1. The parties are instructed to contact the chambers of Magistrate Judge Kevin N. Fox prior to **April 11, 2008** in order to pursue settlement discussions under his supervision.
2. The Joint Pretrial Order must be filed by **May 30, 2008**.

As described in this Court's Individual Practices in Civil Cases, the following documents must be filed with the Pretrial Order: Proposed Findings of Fact and Conclusions of Law and a Memorandum of Law addressing all questions of law expected to arise at trial. Any responsive papers are due one week thereafter.

All direct testimony except for testimony of an adverse party, a person whose attendance must be compelled by subpoena, or a witness for whom a party has requested and the Court has agreed to hear the direct testimony at trial, shall be submitted by affidavits served, **but not filed**, with the Joint Pretrial Order.

Those portions of depositions that are being offered as substantive evidence, along with a one page synopsis (with transcript citations) of such testimony for each deposition, shall be exchanged at the time the Pretrial Order is filed.

Three days after submission of the affidavits, counsel for each party shall submit a list of all affiants that he or she intends to cross-examine at the trial.

Affiants for whom such notice is not given are not required to be present at trial.

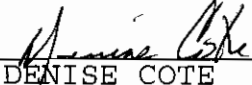
Counsel will provide the Court with a one (1) courtesy copy of all these documents at the time they are served, as well as two sets of pre-marked exhibits assembled sequentially i) in a looseleaf binder, or ii) in separate manila folders labelled with the exhibit numbers and placed in a suitable container or box for ready reference.

IT IS HEREBY ORDERED that the trial will begin at 9:30 a.m. on **June 23, 2008**.

IT IS FURTHER ORDERED that the following procedures shall govern the conduct of the trial.

1. All exhibits must be pre-marked.
2. At the start of the trial each party will present the Court with three copies of a complete exhibit list. The exhibits should include expert reports, and any charts or summaries of evidence.
3. Counsel should be available every day at 9:00 a.m. (except for the first day of trial) in order to discuss with the Court any legal or evidentiary issues expected to arise during the day.
4. Testimony will generally be taken between 9:30 and 5:00 from Monday through Thursday. There will be a mid-morning, a mid-afternoon and a lunch break from 12:45 to 2:00 p.m.
5. Counsel should make certain that they have custody of all original exhibits. The Court does not retain them and the Clerk is not responsible for them.

Dated: New York, New York  
April 8, 2008

  
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DENISE COTE  
United States District Judge